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Licencing requirements of fish farms and control under the Water Rights Act

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FROM THE WATER AUTHORITY

Our journal will start a new column "From the Water Authority", which will feature contributions by the representatives of the National Water Administration or other water authorities. The first column is written by Titta O j a n e n and Seija S a l o n e n from the Industrial Division of the National Water Administration, describing the policy of their division regarding the licencing requirements and control of fish farms.

LICENCING REQUIREMENTS OF FISH FARMS AND CONTROL UNDER THE WATER RIGHTS ACT

By Titta Ojanen and Seija Salonen

Water pollution control regulations applying to fish farms and their control are based on water rights legislation. The National Water Administration and its 13 water districts oversee compliance with the law and the regulations. Within the National Water Administration, the matter is handled by the Industrial Division of the Water Pollution Control and Maintenance Department and by the water pollution control

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and maintenance branches of the water districts. In addition to the supervision of fish farms, these authorities also handle water pollution control planning with reference to fish farming. The following will primarily discuss control under water rights legislation.

The licencing of fish farms and possibilities of operating without a licence from the Water Rights Court have developed into an important issue. Fish farming is not specifically mentioned in the Water Rights Act, but it is subject to the same regulations as other operations that take water, release waste water into the water system, or practice water engineering (e.g. industry, municipal sewage systems). Licencing is based on an assessment of whether the operation violates the three caveats of the Water Rights Act (not to foul, to block or to alter). Under the Water Rights Act, no operations violating these caveats are permitted unless the Water Rights Court grants a special licence.

If the fish farmer wishes to start without a Water Rights Court licence, he should inquire from the water authority whether and to what extent this is possible. It is the duty of the water authority to estimate whether the operation requires a licence under the Water Rights Act. After the fish farmer has notified the water district of the operation, the National Water Administration issues the farmer a statement, which resembles a statement issued on the basis of advance notices.

The above procedure is useful to both the water authority and the fish farmer. The latter is informed of the opinion of the National Water Administration whether the operation requires licencing and whether and in which manner the fish farming can be carried out without a licence from the Water Rights Court.

If the Water Administration is of the opinion that the facility can operate without a Water Rights Court licence, its opinion is based on the fact that the facility is not thought to violate the caveats mentioned in the Water Rights Act as long as it operates in a manner described by the statement. That this is the case should normally also be verified by means such as mandatory monitoring.

In some cases, the water authority and the fish farmers have had conflicting opinions on the legality of the situation. This has happened particularly in marine areas where fish farming has increased rapidly in the last few years. Almost all facilities started without a licence from the Water Rights Court and most also without notifying the water district. In addition, those farms that reported their operations and received a **statement** from the Water Administration, did not always think it necessary to act in accordance with the manner described in the said statement.

Under the Water Rights Act, the water authority must in such a situation take measures to straighten out the matter. Depending on the case, the matter is either reported to the public prosecutor or a request for official assistance is sent to the Water Rights Court. However, it should often be possible to clear the matter up though negotiations between the water authority and the fish farmer.

To recapitulate, it can be said that the fish farmer must have a valid licence from the Water Rights Court when the operation is launched if the operation is subject to licencing under the Water Rights Act. Otherwise, the fish farmer must have a statement from the National Water Administration. It is the duty of the local water district and the National Water Administration to oversee compliance with the licencing regulations of the Water Rights Court and with measures indicated in the statement of the National Water Administration.